Spring 2005

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California Partnership News

A Program of The California Department of Health Services

Visit our Web site at www.dhs.ca.gov/cpltc.

A Message From the Director

Carol Freels

Spring is in the air and with that a new era of the Partnership is dawning. In December 2004, the Partnership program was combined with another program that I currently oversee - the Office of Long-Term Care (OLTC).

For some quick background, the mission of the OLTC is to:

(1) provide leadership and a public focal point for long-term care projects within the Department of Health Services;

(2) coordinate outreach to foundations and community organizations on long-term care issues; and

(3) launch and oversee long-term care initiatives, with a special emphasis on innovation and

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MEDICAID FOR MILLIONAIRES

Reprinted from the Wall Street Journal, February 24, 2005

Medicaid was established in 1965 with the worthy aim of providing medical care for the poor; it was never intended as a middle-class entitlement or as inheritance protection for the children of well-off seniors. Yet the latter is precisely what has happened -- to the point that sheltering assets and income to qualify for Medicaid is now as routine as writing a will.

If you don't believe us, Google "Medicaid estate planning" on the Web and see what pops up. There's a whole "elder law" industry out there dedicated to the children of seniors who want to make sure that other taxpayers, not they, pay for nursing-home care via Medicaid should mom or dad ever need it. As one advertiser puts it, "You can qualify for Medicaid while preserving most assets & savings!"

Such "asset-shifting" may be morally questionable, but in most cases it is entirely legal. Anyone can give away most of his assets and three years later become eligible for Medicaid with no questions asked. Or, since a home, business and car of unlimited value are excluded from the calculation of assets, someone who wishes to qualify for Medicaid may shield his money by remodeling his house, investing in the family business, or purchasing expensive cars that he then gives away to family members (the notorious "two Mercedes rule"). Term life insurance -- also of unlimited value -- is excluded as well.

Medicaid "planners" often counsel well-to-do clients to save enough money to pay for a year of care at a private, high-quality nursing home, which under federal law can't kick you out if you

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American Medical Association (AMA): Policy Directions for the Financing of LTC.

The AMA believes that programs to finance long-term care should:

(1) assure access to needed services when personal resources are inadequate to finance care;

(2) protect personal autonomy and responsibility in the selection of LTC service providers;

(3) prevent impoverishment of the individual or family in the face of extended or catastrophic service costs;

(4) cover needed services in a timely, coordinated manner in the least restrictive setting appropriate to the health care needs of the individual;

(5) coordinate benefits across different LTC financing program;

(6) provide coverage for the medical components of long-term care through Medicaid for all individuals with income below 100 percent of the poverty level;

7) provide sliding scale subsidies for the purchase of LTC insurance coverage for individuals with income between 100-200 percent of the poverty level;

(8) encourage private sector LTC coverage through an asset protection program; equivalent to the amount of private LTC coverage purchased;

(9) create tax incentives to allow individuals to deduct the cost of LTC coverage from income tax, encourage employers to offer such policies as a part of employee benefit packages and otherwise treat employer-provided coverage in the same fashion as health insurance coverage, and allow tax-free withdrawals from IRAs and Employee Trusts for payment of LTC insurance premiums and expenses; and;

(10) authorize a tax deduction or credit to encourage family care giving.

Consumer information programs should be expanded to emphasize the need for pre-funding anticipated costs for LTC and to describe the coverage limitations of Medicare, Medicaid, and traditional medigap policies. State medical associations should be encouraged to seek appropriate legislation or regulation in their jurisdictions to:

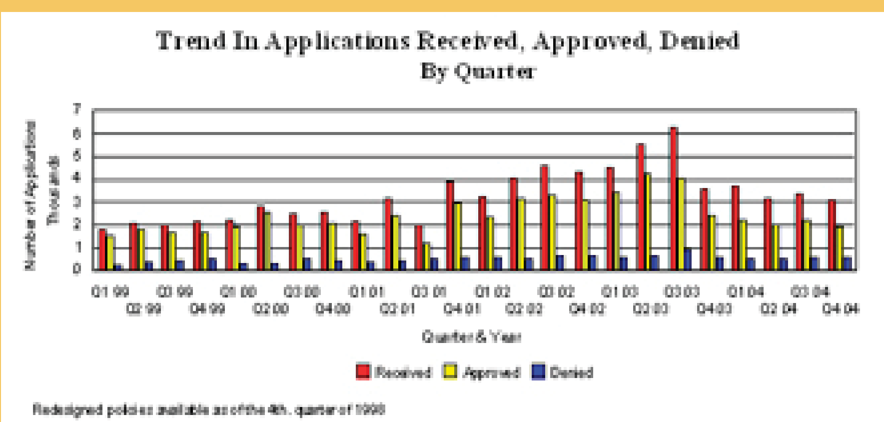
(a) provide an environment within their states that permit innovative LTC financing and delivery arrangements, and;

(b) assure that private LTC financing and delivery systems, once developed, provide the appropriate safeguards for the delivery of high quality care.

The AMA continues to evaluate and support additional health system reform legislative initiatives that could increase states' flexibility to design and implement long-term care delivery and financing programs. The AMA will also encourage and support the legislative and funding changes needed to enable more accurate and disaggregated collection and reporting of data on health care spending by type of service, so as to enable more informed decisions as to those social components of long-term care that should not be covered by public or private health care financing mechanisms.

Preprinted from the American Medical Association website, H-280-991.

California Partnership for Long-Term Care



Visit our web site at www.dhs.ca.gov/cpltc for current sales statistics.

The average age at purchase was **57**

59 % were female

77 % were married

99 % bought comprehensive policies

97 % were first-time purchasers

7 % bought one-year policies

22 % bought two-year policies

17 % bought three-year policies

21 % bought four-year policies

1 % bought five-year policies

33 % bought lifetime policies

Help for Long-Term Care

A few tweaks to federal rules could provide some help with long-term care costs. Starting in January, older homeowners can get up to 8% more cash through reverse mortgages, which to pay for medical costs, insurance premiums or renovations that let people stay at home, rather than moving to a nursing home. Meanwhile, for the 2005 tax year, small business owners will be able to deduct up to 5% more of their long-term care insurance premiums.

A Dent in Bills

Certainly, these are modest improvements. But anything that puts a dent in long-term care bills, either now or in the future, is worth a look. After all, the cost of nursing-home care in the U.S. is outpacing inflation. The daily tab for a private room now averages $192, up 6% from a year ago, according to a recent MetLife, Inc. survey. That means a nursing-home stay of 2-4 years the average length of care, according to government estimates-currently would cost about $168,000.

Reverse mortgages increasingly are being viewed as an untapped piggybank for medical expenses, including long-term care. Lenders originated a record 37,829 such loans in the fiscal year ended Sept. 30, more than double the number in the previous year.

"People are trying to monetize the wealth that they have built up in their home to use for health care and prescription drugs, " says Peter Bell, president of the National Reverse Mortgage Lenders Association, a Washington trade group.

Reverse Mortgages

To review, here's how reverse mortgages work: Homeowners who are at least 62 years old borrow against the equity in their property. So, instead of the homeowner making payments to bank, as with a traditional mortgage loan, the bank makes payments to the homeowner. The loan is repaid, with interest, when the borrower sells the house, moves or dies. (The cost is typically 7% to 11% of the home's value.)

About 13.2 million households could qualify for an average $72,128 apiece in reverse-mortgage loans, or a total of $953 billion, according to a study released earlier this year by the National Council on the Aging, a Washington advocacy group. Here's what that $72,000 could buy, according to the council's research: A home health aide, working four hours a day, for three years; adult daycare for an Alzheimer's patient for six years; or $500 a month for a family caregiver, including one day of respite care each week, for 14 years.

The highest loan limit on the most common type of reverse mortgage product is expected to rise in January to $312,896 from $290,319, Mr. Bell says. The rates are set locally, he notes, so the limits and size of the increase vary depending on where you live.

A Better Break

If you're thinking about buying long-term care insurance instead of using your home equity to pay future bills, one tax break is about to get better. If you or your spouse start a small business, as increasing numbers of workers in their 50s and 60s are doing, the business can buy a long-term care insurance policy for either or both of you-and deduct the premiums, up to a dollar amount set by the Internal Revenue Service. Effective Jan. 1, that limit rises between 4% and 5%, depending on your age. Your business can deduct up to $1,020 for your premium if you're 51 to 60, $2,720 if you 're 61 to 70, or $3,400 if you're 71 or older.

"I look at it almost as an additional retirement plan," says Mike Crifasi, a certified financial planner in Atlanta. With some policies, he adds, your business can pay higher premiums while you're working, and when you retire you pay reduced premiums or none at all. The rules vary a bit depending on the way you structure your business. So it's worth talking to your accountant before calling an insurance agent.

Kelly Green writes for "Encore," The Wall Street Journal's quarterly guide to retirement. Write to her at encore@wsj.com

Class Action Lawsuit: Annuity Sales

A class action lawsuit was recently filed in Los Angeles Superior Court against Midland National Life Insurance Company on behalf of senior citizens. The lawsuit alleges insurance annuities sold by the defendant are unsuitable for seniors because the annuity payment schedule does not begin until long after their life expectancy.

John Migliaccio, deceased, was 73 when he purchased a life insurance annuity from Midland National Life Insurance Company. He paid a premium of approximately $43,000. According to the lawsuit, Mr. Migliaccio would not receive his annuity payments until he turned 115 years old.

"I couldn't believe it until I read the clause in the policy which stated the annuity payments would not start until his 115th birthday," said lead attorney William Shernoff of Shernoff Bidart & Darras in Claremont, California. "The aim of this class action is to stop the sale of such policies to senior citizens and to refund premiums to those who already have been sold such policies," he said.

Shernoff, a nationally-recognized expert in representing insurance policyholders, explained that the annuity policies are further ill-suited for seniors because they can only withdraw minimal amounts of their money without suffering a significant surrender charge, which can be as high as 22%. "Many times seniors need to access their money for health care or other emergencies, but are hampered in doing so by penalties and surrender charges," he said.

Shernoff believes there is a widespread practice within the insurance industry involving sales to seniors generating billions of dollars. "This lawsuit seeks to have the Court address this problem in order to protect innocent senior citizens," he said.

Reprinted from a Business Wire story from January 25, 2005

Partnership Video

The 8-minute marketing video is available in DVD or VHS format and sells for $6 for 1-49 copies and $5 for orders of 50 or more. Order forms and an on-line version of the video are available at www.dhs.ca.gov/cpltc.

cont'd Directors Message

improvement through a proactive public-private partnership strategy.

I am extremely enthusiastic about this change and feel that my public policy experience and my passion for improving long-term care options will be a good fit.

Hopefully, I will have the opportunity to meet some of you at the upcoming agent seminars to be held in May. On page 6, you will find more information on these meetings. I look forward to seeing you then.

Carol Freels

To be removed from our mailing list, please e-mail your request to cpltcas@dhs.ca.gov or call the Partnership at (916) 552-8990.

These Continuing Education providers are approved by the Department of Insurance and the Department of Health Services. Each of these providers offer the training required by the Partnership.

The Partnership does not endorse any particular course. All courses must follow the outline developed by the Partnership.

Please call the providers below for their list of scheduled classes or visit their websites for detailed information.

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then switch over to Medicaid. As Stephen Moses of the Center for Long-Term Care Financing points out, "Poor people don't have key money, so they end up in the least desirable 100%-Medicaid facilities, while the lawyers' clients occupy the scarcer Medicaid beds in nicer nursing homes." About 70% of nursing-home patients are on Medicaid.

Congress has periodically tried to clamp down on abuses but usually ends up making things worse. In 1993 it passed a law requiring states to recover the cost of benefits from the estates of deceased recipients (or from the estates of the spouses they predecease). This bombed, as most states make only half-hearted efforts to recover Medicaid costs. In 2002, state Medicaid programs spent $46.5 billion on nursing home care but recovered a measly $350 million from estates.

An excellent way to keep seniors off Medicaid would be to encourage more to buy their own long-term care insurance. The Department of Health and Human Services was experimenting with a "Partnership" program to do just that in the early 1990s, only to be shut down by Congressman Henry Waxman (D., Calif.).

Under the Partnership program, a consumer who purchases, say, $100,000 in long-term care insurance can exempt that sum before drawing down the rest of his assets and, if necessary, going on Medicaid. Not only does this give the senior a guaranteed amount of money to preserve for his heirs, the insurance payouts give him the freedom to purchase the long-term care of his choice. If he wishes to use the money for home care, he can do so.

The four states that had already implemented Partnerships before Mr. Waxman imposed a ban -- New York, Connecticut, Indiana and California -- were permitted to proceed and 13 years later their experience suggests that incentives work. According to Michael O'Grady, an assistant secretary at HHS, 180,000 insurance policies have been sold (a faster rate than in non-Partnership states), 2,000 policyholders have received insurance payments, yet only 86 people have gone on Medicaid.

Long-term Care Partnerships are an even better idea now that baby boomers are approaching retirement and every state is looking for ways to slow the growth in Medicaid spending. As part of its proposed reforms, the Bush Administration wants Congress to lift the Waxman ban. Mr. Waxman's office says he remains skeptical, which is not surprising since he is renowned for using his power to make more Americans dependent on government. Many liberals actually want more of the middle class to get hooked on Medicaid because it helps them build support for higher taxes.

The Administration also wants Congress to update the look-back law, so that the three-year grace period for giving away assets doesn't begin until a senior enters a nursing home or goes on Medicaid. Other measures worth considering include eliminating the home exemption, and requiring seniors who need long-term care to take out reverse mortgages (borrowing against the value of their home) to pay for it.

Ohio is considering a proposal under which the state would claim title to a senior's assets, giving him a zero-interest loan against Medicaid benefits until he is deceased and the assets are used to offset the costs incurred by the state for his care. Seniors who choose cheaper care options would get to keep more assets. This is "the most aggressive effort to control long-term care costs anywhere in the nation," says John Goodman of the National Center for Policy Analysis.

Long-term care accounts for about one-third of federal and state expenditures on Medicaid, to the tune of $100 billion this year. It is the biggest driver of skyrocketing Medicaid costs that are bankrupting many states and localities. Medicaid was created 40 years ago to care for the needy. The rest of us have an obligation to pay for our own care -- or to protect our wealth with private insurance.

CPLTC Quarterly Report

- Quarterly & Cumulative Sales Statistics
- Benefit Amounts Purchased
- Elimination Periods
- Age of Policyholders
- Trends In Applications Received, Approved and Denied
- Policyholders & Earned Asset Protection
- Service Utilization

The Quarterly Report is available at www.dhs.ca.gov/cpltc

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Celebrating the Partnership's 10th Anniversary

The logo, shown at left, was developed by the Partnership to celebrate our ten-year anniversary. We will be using this logo in our brochures and other educational materials during 2005. You will see the logo used separately and in conjunction with our regular logo. The logo use rules were included in the Spring 2004 issue of the Partnership News and can be accessed on our website at www.dhs.ca.gov/cpltc.

Partnership Agent Trainings Seminars Garden Grove & Concord

The Partnership is pleased to announce that during May 2005, we will be holding our advanced agent training seminars in Northern and Southern California. The Northern California seminar is set for Wednesday, May 11th at the Holiday Inn in Concord. The Southern California seminar is being conducted on Thursday, May 19th at the Embassy Suites in Garden Grove. Each seminar will offer four-hours of Partnership specific CE credit that can be applied towards your eight-hour requirement. Keep an eye in the mail for the registration brochure that you should receive by the middle of April. We hope to see you then.